



**RULES OF THE JUDICIAL
MERIT SYSTEM
OF THE SUPERIOR COURT IN
YUMA COUNTY**



RULE 10 - SEPARATION AND DISCIPLINARY ACTIONS

10.01 General Provisions

Except as otherwise provided in these Rules, the tenure of an employee with regular status will continue with satisfactory behavior and the performance of duties.

10.02 Reduction in Force (RIF)

- A. An Appointing Authority may lay off (RIF) an employee in the court service whenever it is necessary by reason of shortage of funds or work, or by reason of a bona fide abolishment of or change in the duties of a position, or when the Court Department is reorganized and the need for the position is eliminated.
- B. When a reduction-in-force (RIF) is deemed necessary, the Appointing Authority may limit the RIF to a functional or organizational unit, or classification, in order to maintain work production and essential services.
- C. The Appointing Authority will notify the Court Administrator who will establish, in consultation with the Appointing Authority, the order of preference of RIF for as many employees as are to be separated. In any event, the Appointing Authority will transfer all affected employees in other positions, if possible; the Court Administrator will attempt to place the remaining employees, if any, in other vacancies in the court service.
- D. No employee with regular status is to be separated by RIF while there are temporary, on-call, or probationary employees serving in the court department in the same, equal or lower level positions for which such regular status employee or employees are qualified and available for reassignment or transfer.
- E. In determining the order of RIF's employees with regular status, the Court Administrator and the Appointing Authority will consider on a consistent and equitable basis such factors as qualifications, performance, appraisals, work record, conduct and seniority.

- F. The same rules and procedures will apply to regular status employees in positions funded by a grant or separate funding source, but limited to the grant or separate funding source, unless the employees were not apprized in writing of the funding status at the time of placement in the position, in which case employees will be ranked together with other employees to determine the order of RIF.

10.03 Disciplinary Procedure

- A. The Appointing Authority may reprimand, suspend, demote or terminate an employee for any cause as provided by these Rules. Each of the following constitutes cause for discipline of an employee in the court service.
1. Fraud in securing or maintaining appointment
 2. Incompetency
 3. Inefficient job performance
 4. Abuse of sick leave
 5. Neglect of duty
 6. Insubordination
 7. Dishonesty relating to employment
 8. Absence without leave
 9. Commission or conviction of a felony
 10. Discourteous treatment of the public or fellow court or county employees
 11. Improper political activity
 12. Violation of Code of Ethics (Rule 15)
 13. Violation of the Arizona Code of Conduct for Judicial Employees
 14. Abuse of authority
 15. Violation of sexual harassment policy (Rule 16)
 16. Misuse of government property

17. Possessing, dispensing or being under the influence of a narcotic, marijuana, dangerous drugs or any other drug listed and/or defined in A.R.S. §13-3401, which would affect the employee's suitability for continued employment, except in accordance with medical authorization or the lawful performance of the Employee's regularly assigned duties.

18. Non-compliance with Commission on Judicial Education & Training ("COJET") standards

19. Any other good cause

- B. The Appointing Authority may place an employee on an administrative leave status with pay pending investigation of allegations giving rise to possible disciplinary action. No pay of the employee may be withheld before the effective date of the disciplinary action, if any.
- C. A classified employee may only be placed on administrative leave with pay-for-cause by a person who has been designated as an acting Appointing Authority because the Appointing Authority is temporarily unavailable. The action will be referred to the Appointing Authority upon return for action pursuant to Rule 10.03.
- D. An employee may be placed on administrative leave with pay by a supervisor if the supervisor believes an employee is in an impaired state rendering the employee unable to perform his or her duties or rendering the employee a danger to self or others, or for other good cause requiring immediate leave status. The supervisor must file a written report of the leave status and the reasons for it with the Appointing Authority the next working day. The Appointing Authority may implement rule 10.03 upon receipt of the report.
- E. Before any disciplinary action is taken against a regular status employee, the Appointing Authority will provide the employee a written notice of charges in sufficient detail to apprise the employee of the specific reasons that the formal disciplinary action against the employee is pending. The Appointing Authority will include the date and time the employee may meet with the Appointing Authority or designee at a pre-disciplinary hearing at which time the employee may provide, verbally or in writing or both, any explanations, circumstances or reasons why the proposed disciplinary action should not be effected. The written notice of charges will be transmitted to the employee either by personal delivery or by certified mail to the employee's last known address according to the records of the Human Resources Department.
 - 1. The employee will be given reasonable time off from his/her work responsibilities to attend the pre-disciplinary hearing.
 - 2. The employee may appear personally, produce evidence, and have a representative present during the hearing.

3. The employee shall select a representative who is available on reasonable notice so that the interview is not unreasonably delayed.
 4. The representative will serve in an advisory capacity only and may not speak for the employee or ask questions on the employee's behalf.
 5. Unless agreed to by the employer, the representative shall be from the same agency and shall not be an attorney.
 6. The employee shall be permitted reasonable breaks of limited duration during any interview for telephonic or in person consultation with others, including an attorney, who are immediately available. (Amended February 13, 2006)
- F. Following the pre-disciplinary hearing, the Appointing Authority will determine whether formal disciplinary action is to be taken. If the Appointing Authority takes disciplinary action, the Appointing Authority will give the regular status employee a written notice indicating of the action to be taken, the specific reasons for taking the action and the effective date of the action. The written notice will disclose evidence supporting termination, where applicable, including the names and nature of the testimony of adverse witnesses and a written statement of the fact finder as to the evidence relied upon and the reasons for the determination made. The written notice will be either hand delivered to the regular status employee or transmitted by certified mail to the regular status employee's last known address according to records of Human Resources. Copies of the written notice of disciplinary action will be delivered to the Court Administrator and Presiding Judge.
- G. The Appointing Authority will include in the written notice a statement of a regular status employee's right to appeal in writing to the Presiding Judge within ten (10) calendar days of the employee's receipt of the Appointing Authority's written notice. An employee will lose their right to appeal if the appeal notice is not filed within the prescribed time frame.

10.04 Resignations

An employee who desires to terminate employment with any Court Department is expected to submit a written resignation to the Appointing Authority at least two (2) weeks prior to the effective date of resignation. An employee who submits a resignation may not retract the resignation unless the Appointing Authority finds that a retraction is in the best interest of the court department.

10.05 Retirement

A regular status employee who retires under the state retirement plan (or system) is deemed separated without prejudice and does not have the right to appeal.